

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
Charlottesville Division

JASON KESSLER

Plaintiff,

v.

CITY OF CHARLOTTESVILLE

and

MAURICE JONES

Charlottesville City Manager

In his individual and official capacities

Defendants.

Case No.: 3:18CV00015

COMPLAINT

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Comes now the Plaintiff, Jason Kessler, and for his Complaint against the above named Defendants, states as follows, to wit:

1. This is an action arising under the Constitution and laws of the United States for violation of Plaintiff's rights under the First and Fourteenth Amendments to the United States Constitution.

### **Parties**

2. Plaintiff Kessler is a citizen of the United States and of Albemarle County, Commonwealth of Virginia.
3. Defendant City of Charlottesville (“the City”) is a political subdivision of the Commonwealth of Virginia.
4. Defendant Maurice Jones is the City Manager for the City of Charlottesville in the Commonwealth of Virginia. At all relevant times, Defendant Jones acted and continues to act under color of state law. Defendant Jones is sued in his individual and official capacities.

### **Jurisdiction and Venue**

5. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 and § 1343(3). This case seeks remedies under 28 U.S.C. §§ 2201 and 2202, 42 U.S.C. §1983 and 1988, and FRCP 65. This Court may issue a temporary restraining order and preliminary injunction pursuant to FRCP 65(b). Venue is proper over each claim and each defendant pursuant to 28 U.S.C. §1391(b) because a substantial part of the events or omissions giving rise to Plaintiff’s claims occurred in this District.

### **Facts**

6. The City of Charlottesville owns a park bounded by Jefferson Street, First Street N.E., Market Street, and Second Street N.E. (“the Park”).
7. Since 1924, the park has boasted a statue of Robert E. Lee. Historically, the park was known as “Lee Park.” See <http://www.charlottesville.org/departments-and->

services/departments-h-z/parks-recreation-/parks-trails/city-parks/lee-park/history-and-gardens-of-lee-park, attached hereto as Exhibit A.

8. In February of 2017, the City voted to remove the Lee statue.
9. In April of 2017, the City voted to sell the statue, any buyer being required to remove it, apparently in violation of Virginia Code 15.2-1812, 1812.1 and a criminal act under 1812.2.
10. On June 5, 2017 the City renamed the Park "Emancipation Park."
11. The City's decision to remove the statute has resulted in a number of protests at the park including one by a former gubernatorial candidate.
12. Plaintiff opposes both the name change, the attempt to sell the statue and remove it from the park, and the political positions underlying both of those decisions. To communicate his political message, Plaintiff sought to organize a "Unite the Right" Rally in the park to express opposition to the City's plans for the park and the political positions underlying those plans.
13. Plaintiff's choice of location is critical to the message of the rally which specifically opposes City policy choices about the park and their underlying rationale.
14. Defendant City requires persons wishing to exercise their First Amendment rights on its public land to first obtain a permit.
15. Plaintiff Kessler properly applied for a permit on November 27, 2017 requesting the dates of August 11 and 12<sup>th</sup> 2018 for the purpose of a political demonstration. A copy thereof is attached as Exhibit B.
16. These dates are critical to Plaintiff's political message as they are they the one year anniversary of 2017's controversial "Unite the Right" rally and to allow the City to

wrongfully move Plaintiffs event off those dates, or outright deny him a permit, would dilute and alter his message.

17. On December 11, 2017 defendant Maurice Jones, on behalf of the City, sent Mr.

Kessler a letter denying his requested permit, attached hereto as Exhibit C.

18. The City specified three reasons for the permit denial.

19. *The first reason* fails as the City has a legal obligation to protect protestors from violent counter protestors. The City may not rely on community hostility as an excuse to not protect, or to affirmatively trample upon, the First Amendment rights of Mr. Kessler. In addition, the City has already demonstrated that it has the ability to protect those exercising their free speech rights from those who would deny those rights, as it successfully did so during a rally on July 8, 2017. It's knowing and intentional choice not to do so for Unite the Right on August 12, 2017 does not relieve them of this obligation.

20. The City is well aware there is plenty of room at the requested park for a reasonably expected crowd size. The Court may take judicial notice that the Park is about one acre in size, that an acre is approximately 43,000 square feet, that an average adult takes up about 2 square feet at the hip level, and that the Park will theoretically accommodate about 20,000 people, cheek by jowl.

21. The City has granted permits for many other events, such as Charlottesville Earth Week 2016 (2,000 persons expected), Charlottesville Pride 2016 (4,000 persons), Festival of Cultures 2016 (3,000 persons), Festival of Cultures 2017 (3,000 persons), and the Tom Tom Founders Festivals 2017 (200-2500 persons). Copies of those permits are attached as Exhibit E. A few hundred attended the last Unite the Right

Rally, nowhere near filling the two barricaded areas established in less than half of the park. Perhaps a thousand “attended” illegally around the park on the public highways and sidewalks surrounding the park.

22. *The second reason* fails as Mr. Kessler sent written notice to the City on December 16, 2017 to Miriam Dickler and Michelle Christian stating that he would abide by the regular park operating hours, rendering this City objection nugatory.
23. *The third reason* fails as Mr. Kessler is an individual applicant and therefore cannot be held responsible for the actions of others as a condition of exercising his First Amendment rights, as the City is attempting to require.<sup>1</sup>
24. Prior to the first Unite the Right rally, City leaders publicly insulted and opposed Mr. Kessler’s pro-monument political message. On June 21, 2017, with former Mayor Signer calling it message “racist” and “bigoted.”
25. Former Vice Mayor Wes Bellamy, called Mr. Kessler’s pro-monument message “fascist” on August 2, 2017.
26. On December 16, 2017, Mr. Kessler sent written notice to the City on December 16, 2017 to Miriam Dickler and Michelle Christian stating that he would abide by the regular park operating hours. Kessler’s further attempts to point this out met only with instructions contact the City Attorney’s office.
27. On January 29, 2017, Kessler, by his attorney, sent a letter to the City Attorney’s office, asking the city to specify the terms and conditions upon which it would grant a permit. On February 23, 2018, the City only referred back to the denial letter of December 11, 2017, and pointed out the location of the city’s Special Events Regulations. Exhibit D.

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<sup>1</sup> The City specifically did not list failure to purchase insurance as a reason for denying Mr. Kessler a permit.

28. The City's current denial is another example of its pattern and practice of knowingly and intentionally denying First Amendment rights guaranteed by the United States Constitution. In Kessler v. City of Charlottesville, Civil Action No. 3:17cv000 56, the City issued, and then denied, a rally permit. In a well-reasoned opinion, this court granted the "extraordinary" remedy of a preliminary injunction because the denial of the permit was an unconstitutional content based restriction. Opinion of August 11, 2017, Document 21.

29. The very next day, August 12, 2017, the City defied this court's order. After intentionally closing its eyes to hundreds, if not thousands, of misdemeanors and felonies committed by the illegal, unpermitted rioters upon the rallygoers for approximately an hour, the City declared the *rally* an unlawful assembly on the grounds that "several" (unspecified, uncounted, and unnamed) rallygoers had thrown bottles of clear liquid, possibly resembling water, out of the permitted area. It then changed the location of the rally to----the streets full of enraged, illegal, unpermitted rioters, at least one of whom carried a sign that said "This Machine Kills Fascists."

30. While there are several months between now and Mr. Kessler's requested rally dates, the City's misconduct has placed Mr. Kessler in a position where few people will be willing to plan to attend. A reduced crowd will dilute Mr. Kessler's message.

31. Unless Defendants and their agents are enjoined, Plaintiff, other similarly-situated protesters who share his views, and other members of the public will be irreparably harmed as they will be prevented from peacefully gathering to

express their views on pressing issues of public concern at a time, place and in a manner reasonable for them to do so.

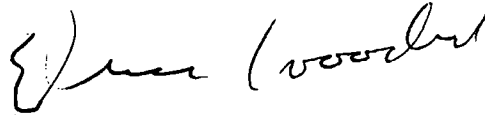
**First Cause of Action-First and Fourteenth Amendment**

32. Plaintiff reasserts and realleges the foregoing paragraphs as though fully set forth.
33. Defendants' denial of the requested permit violated and, unless enjoined by this Court, will continue to violate, Plaintiff's rights to freedom of speech, assembly, and petition as guaranteed by the First and Fourteenth Amendments to the United States Constitution.
34. The Defendants' denial of Plaintiff's permit was based on his viewpoint and was not necessary to achieve any compelling government interest, in violation of the First and Fourteenth Amendments;
35. To the extent that the denial of the permit was based on crowd size, said denial was not narrowly tailored to a substantial government interest, and did not leave open alternative means of communication.

**WHEREFORE**, Plaintiff demands judgment against the Defendant as follows:

- A. Compensatory damages in an amount to be shown at trial, commensurate for a Defendant that has learned nothing from its last violation of the United States Constitution;
- B. Enter judgment declaring that Defendants' denial of Plaintiffs requested permit to hold a demonstration in Emancipation Park on August 11 and 12th, 2018 violates the First and Fourteenth Amendment to the United States Constitution;

- C. Enter a temporary restraining order and/or preliminary injunction enjoining Defendants to permit the demonstration to go on as planned in Emancipation Park on August 11-12, 2018 from 6 am to 11 pm, or in the alternative during regular park hours on the 12<sup>th</sup>, and to provide such security as may be necessary to protect the rights of the demonstrators and the public;
- D. Costs incurred in this action;
- E. Reasonable attorney fees;
- F. Such other and further relief as the Court may deem just and proper.



s/ Elmer Woodard

ELMER WOODARD (VSB 27734)

5661 US Hwy 29

Blairs, Va. 24527

(434) 878-3422

isuecrooks@comcast.net



## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

<b>I. (a) PLAINTIFFS</b> Jason Kessler	<b>DEFENDANTS</b> City of Charlottesville, Virginia, and Maurice Jones
<b>(b) County of Residence of First Listed Plaintiff</b> Charlottesville <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i>	<b>County of Residence of First Listed Defendant</b> Charlottesville <i>(IN U.S. PLAINTIFF CASES ONLY)</i>
<b>(c) Attorneys (Firm Name, Address, and Telephone Number)</b> Elmer Woodward, 3661 U.S. Hwy 29 Bluffs, Va. 24527 434-8783422	<b>NOTE:</b> IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.  <b>Attorneys (If Known)</b>

<b>II. BASIS OF JURISDICTION</b> <i>(Place an "X" in One Box Only)</i>  <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i>  <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i>	<b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> <i>(Place an "X" in One Box for Plaintiff and One Box for Defendant)</i>  <table style="width:100%;"> <tr> <td style="width:33%;"></td> <td style="width:10%; text-align: center;"><b>PTF</b></td> <td style="width:10%; text-align: center;"><b>DEF</b></td> <td style="width:33%;"></td> <td style="width:10%; text-align: center;"><b>PTF</b></td> <td style="width:10%; text-align: center;"><b>DEF</b></td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 1</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		<b>PTF</b>	<b>DEF</b>		<b>PTF</b>	<b>DEF</b>	Citizen of This State	<input checked="" type="checkbox"/> 1	<input checked="" type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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IV. NATURE OF SUIT <i>(Place an "X" in One Box Only)</i>				Click here for: Nature of Suit Code Descriptions.	
<b>CONTRACT</b> <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability  <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<b>FORFEITURE/PENALTY</b> <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other  <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act  <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<b>BANKRUPTCY</b> <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157  <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark  <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))  <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<b>OTHER STATUTES</b> <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

<b>V. ORIGIN</b> <i>(Place an "X" in One Box Only)</i>							
<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from Another District <i>(specify)</i>	<input type="checkbox"/> 6 Multidistrict Litigation - Transfer	<input type="checkbox"/> 8 Multidistrict Litigation - Direct File	

<b>VI. CAUSE OF ACTION</b>	Cite the U.S. Civil Statute under which you are filing <i>(Do not cite jurisdictional statutes unless diversity):</i> 28 U.S.C. 1331 Brief description of cause: Denial of First Amendment rights
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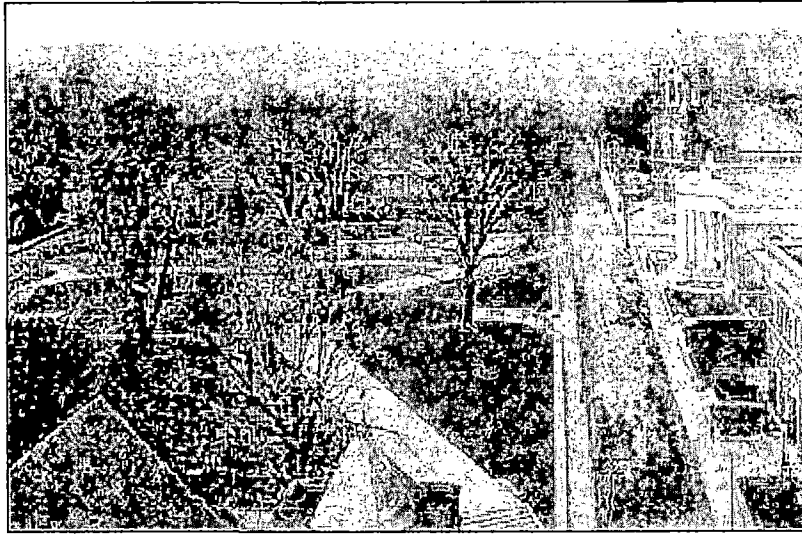
<b>VII. REQUESTED IN COMPLAINT:</b>	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.	<b>DEMAND \$</b> 172,600,000.00	CHECK YES only if demanded in complaint: <b>JURY DEMAND:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
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<b>VIII. RELATED CASE(S) IF ANY</b>	<i>(See instructions):</i> JUDGE Norman K. Moon	DOCKET NUMBER 3:17-cv-00072
DATE 3/6/18	SIGNATURE OF ATTORNEY OF RECORD 	
FOR OFFICE USE ONLY		

RECEIPT #      AMOUNT      APPLYING IFP      JUDGE      MAG. JUDGE

***Exhibit A***

## History and Gardens of Emancipation Park



Emancipation Park (formerly known as Lee Park): prior to the installation of the Robert E. Lee monument in 1924.

(Photo by Rufus Holsinger)

Holsinger Studio Collection (#9862), Special Collections Department, University of Virginia Library

On May 28, 1917, Paul McIntire purchased a city block that encompassed 45,435 square feet bound by Jefferson and Market Streets and by First and Second Streets, NE. On the lot stood the 1829 Southall-Venable home which was owned by the Charles S. Venable family. The house was a two story brick dwelling surrounded by several smaller outbuildings and beautiful gardens containing fir, oak, and weeping willow trees. During the following year, McIntire had the dwelling demolished and created a formal landscaped square, now known as Emancipation Park (formerly known as Lee Park). McIntire gave the site to the City of Charlottesville in order "to erect thereon a statue of General Robert E. Lee and to present said property to the City as a memorial to his parents..." This park was the first of four parks he eventually gave to the City of Charlottesville. Today, wide concrete walkways lead into the park at each corner and along Second Street. They converge on a central plaza where boxwood, Japanese holly, and annual plantings surround the heroic-sized bronze figures of Lee and his horse, Traveller, atop an oval-shaped granite pedestal.



Southall-Venable House, January 22, 1918

Holsinger Studio Collection (#9862), Special Collections Department, University of Virginia Library

For Paul McIntire, the sculpture of Lee proved most troublesome. Seven years would elapse before the bronze portraits of Lee and Traveller were finally erected in Charlottesville. Henry Shrady was commissioned to execute the sculpture in 1917. At the time, Shrady was nearing completion of the Grant Memorial, an enormous project on which he had been working for nineteen years. For over a year Shrady's primary focus continued to be on the Grant memorial. Finally, on June 10, 1918, the sculptor informed McIntire that he had completed the Grant Memorial and was ready to "Carry on the sketch of the Lee to completion."

Chronically ill, Shrady worked very slowly. After two years, Shrady had yet to complete the 1/3 size model of the Lee sculpture. He wrote to McIntire that "I have every hope of finishing it this summer and begin[ning] the larger one in the fall... I believe the pedestal is almost finished, and will soon be ready to be put in place." On October 14, 1920, Lloyd Brothers Memorials of Washington, DC reported that the pedestal would be assembled and ready for inspection by "next Tuesday."

Upon viewing the miniature sculpture, concern mounted over the likeness of both Lee's face and the likeness of Traveller. Though the unsatisfactory likeness of Lee and Traveller suggest that Shrady's health was failing, it must have come as a shock to McIntire when on April 13, 1922, the Associated Press announced the death of noted sculptor Henry Merwin Shrady.

On his deathbed, Shrady is reported to have instructed the doctors and nurses who attended him to "keep the canvas wet -- keep the canvas wet", speaking about the cover over the clay model of Lee and Traveller and how it must be kept moist until a plaster cast could be taken from it. The hospital staff are said to have ignored the request, thinking the dying man was delirious. Whether this report is true or not, the canvas around the model had dried and adhered to the clay. When Leo Lentelli was commissioned to complete the sculpture, he found Shrady's model almost ruined.

Before completing the model, Lentelli visited museums in Richmond and Washington to measure Traveller's skeleton and Lee's garments and equipment. He found Shrady's model of the horse to be exactly one and two-thirds life size. His figure of Lee, estimated from the size of General Lee's coat, hat and gloves, was equally accurate.

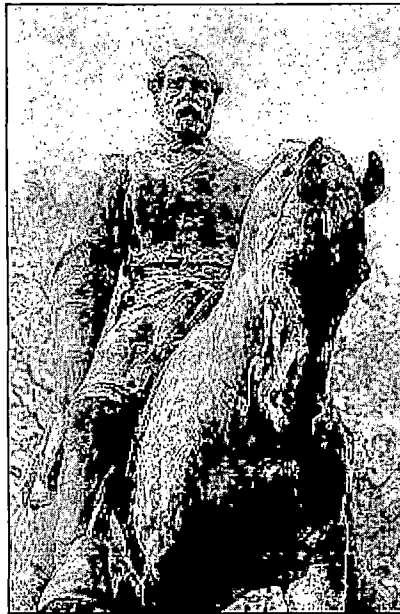
In January 1924, nearly seven years after the work had been originally commissioned, the statue was finally cast in bronze at the Roman Bronze Works in Brooklyn, New York. The piece was signed CONCEIVED BY SHRADY - EXECUTED BY LEO LENTELLI SC. 1924. After being delayed en route, the work arrived in Charlottesville in late April and was placed in the park on Saturday, May 3rd. Lentelli, however, did not give Lee and Traveller the vitality Shradly had envisioned, for Shradly's small model of the sculpture, now at the Jefferson-Madison Regional Library in Charlottesville, shows animation, while Lentelli's larger figures are quieter but more dignified and powerful.

Paul McIntire instructed that the local chapters of the Confederate Veterans, Sons of Confederate Veterans and the United Daughters of the Confederacy should have entire charge of planning the exercise for the unveiling of the sculpture in Charlottesville. It was thus presented to the city on May 21, 1924, during a Confederate reunion. As a part of the ceremony, one hundred cadets from the Virginia Military Institute paraded through the center of Charlottesville decorated with Confederate colors.

The sculpture was presented to the City on behalf of Paul McIntire by Dr. Henry Louis Smith, President of Washington and Lee University. Three-year-old Mary Walker Lee, a great-grand-daughter of General Lee, then pulled the Confederate flag draped over the sculpture away, and the crowd cheered loudly before President Edwin A. Alderman of the University of Virginia made a speech of acceptance for the City of Charlottesville. The afternoon's festivities concluded with a benediction, after which the crowd dispersed to celebrate at a number of parties and balls.

Twenty-seven years later, in 1951, the Albemarle Garden Club suggested to the City Council that iron picket fences be erected around the sculptures of Lee and Jackson in their respective parks, and that a subterranean parking lot be constructed beneath Emancipation Park (formerly known as Lee Park). The Garden Club's suggestions were never implemented, though during the 1950's a few changes did occur. In addition to the boxwoods planted around the base of the statue, paths radiating from First Street toward the central court were constructed. The paths are not as wide as those radiating from Second Street, nor are they symmetrical since one is designed to accommodate a large weeping willow tree (which can be seen in the top photograph).

In the 1970's a 100-year-old white ash tree fell in Emancipation Park (formerly known as Lee Park). Shortly thereafter, the Lee-Jackson Foundation planted a new tree that was dubbed the "Lee Oak". The boxwoods planted around the statue were replaced by a low growing shrub to discourage "the city's derelicts" from loitering behind the tall bushes. Other trees of interest planted in recent times include a weeping beech, a Japanese maple and several dogwoods. Currently, Emancipation Park (formerly known as Lee Park) and Justice Park (formerly known as Jackson Park) are maintained in part by citizens who participate in the City's Volunteers in the Gardens program.



Statue of Robert E. Lee and Traveller

The City of Charlottesville wishes to thank and acknowledge:

- The Albemarle Charlottesville Historical Society ;
- The Charlottesville Daily Progress (newspaper);
- Special Collections Department, University of Virginia Library ;
- The United States Department of the Interior, National Park Services, National Register of Historic Places , *Robert Edward Lee Sculpture - Albemarle County, Virginia.*

***Exhibit B***



**SPECIAL EVENT APPLICATION REQUEST**

\$25.00 Non-Refundable Application Fee Required.  
Please attach any additional info to this form.

Return to:  
Charlottesville Parks & Recreation  
P.O. Box 911  
Charlottesville, VA 22902



Pd/c 11-27-17

**FOR OFFICIAL USE ONLY****Organizational Status:**

☐ Non-Profit ☐ Commercial ☐ Independent  
☐ Maps Attached ☐ ABC Permit Required  
☐ Tent Permit Required ☐ License Verified

**INDEMNITY RELEASE**

In making this request, the applicant understands that the sponsor will hold harmless and indemnify the City, its officers, employees, and agents against injury, loss or damage occurring as a result of this special event. Sponsors of special events held on public property will be required to provide Special Event Liability Insurance in an amount not less than \$1 million dollars, naming the City of Charlottesville, its officers, officials, employees and agents as an additional insured party to the contract. For additional information regarding this requirement please contact the Charlottesville Parks & Recreation Department at 970-3260.

Sponsor(s) Name: Jason Kessler

Address: \_\_\_\_\_

Sponsor Telephone: \_\_\_\_\_

Event Contact Name: ( ) \_\_\_\_\_

Contact Address: Email: the.maddimension@gmail.com  
Email 2: jason@unityandsecurity.org

Contact Telephone: Office ( ) \_\_\_\_\_

Home ( ) \_\_\_\_\_

Cell ( ) use # on file

Jason Kessler  
APPLICANT SIGNATURE

11/27/17  
DATE

DATE APPLICATION SUBMITTED: November 27, 2017

**EVENT PURPOSE / BRIEF DESCRIPTION:**

Rally against government civil rights abuse and failure  
to follow security plans for political dissidents  
- We are opposing any changes to Lee (Emancipation)  
Park and memorializing the sacrifices made by political  
dissidents in Lee Park August 12th, ~~2017~~ 2017

Date Application Received By P&R



IDENTIFY EVENT CATEGORY: ☐ CARNIVAL ☒ DEMONSTRATION ☐ FAIR ☐ FESTIVAL  
☐ FUNDRAISER ☐ HISTORICAL CELEBRATION ☐ MARATHON  
☐ RACE/WALK ☐ PARADE ☐ OTHER (Describe Other) \_\_\_\_\_

EVENT VENUE & LOCATION REQUESTED: Lee (Emancipation) Park

LIST RACE/WALK STREET ROUTES, IF APPLICABLE (A clear & legible map showing walk/run routes also requested -Please attach map to application):

STREET CLOSING REQUESTED, IF SO INCLUDE LOCATIONS AND CLOSING /OPENING TIME(S): ☐ YES ☒ NO  
LOCATION(S): \_\_\_\_\_

CLOSING DATE(S) \_\_\_\_\_ CLOSING/OPENING TIME(S): FROM \_\_\_\_\_ am/pm UNTIL: \_\_\_\_\_ am/pm

2 day festival  
EVENT START DATE/TIME: Day 1 Saturday 8/11/18 7am  
(WEEKDAY) (DATE) (TIME)  
EVENT END DATE/TIME: Day 1 Saturday 8/11/18 11pm  
(WEEKDAY) (DATE) (TIME)  
Day 2 Sunday 8/12/18 7am  
EVENT SETUP DATE/TIME (INCLUDE WEEKDAY): Day 1: Saturday 8/11/18 6am  
(WEEKDAY) (DATE) (TIME)  
Day 2: Sunday 8/12/18 6am  
EVENT BREAKDOWN DATE/TIME (INCLUDE WEEKDAY):  
(WEEKDAY) (DATE) (TIME)

EVENT RAIN DATE REQUESTED: ☐ YES ☒ NO DATE REQUESTED: \_\_\_\_\_  
(WEEKDAY) (DATE)

ESTIMATED # PARTICIPANTS: 400 WILL AMPLIFIED MUSIC BE USED: YES ☐ NO ☒

IDENTIFY TYPE MUSICAL ENTERTAINMENT REQUESTED: ☐ BAND ☐ DISC-JOCKEY ☐ OTHER

CITY UTILITIES NEEDED? YES ☒ NO ☐ IDENTIFY TYPE UTILITIES NEEDED, IF APPLICABLE: Electricity and water

CITY EQUIPMENT REQUESTED, IS SO PLEASE IDENTIFY TYPE EQUIPMENT: ☐ YES ☒ NO  
IF YES, IDENTIFY TYPE EQUIPMENT REQUESTED: \_\_\_\_\_

OTHER CITY SERVICES REQUESTED ☒ YES ☐ NO

(Please identify the area of services needed including staff assistance if applicable):

Police that show up and keep opposing sides separate; leave demonstrators a clear path into event without threat of violence

***Exhibit C***

# CITY OF CHARLOTTESVILLE

Office of the City Manager  
P.O. Box 911  
Charlottesville, Virginia 22902  
Telephone: (434) 970-3101



## NOTICE OF DECISION Issued Pursuant to the City's Special Events Regulations (8/12/10)

**APPLICATION/REQUEST DATE:** Two applications, each received by City on 11-29-2017

(i) McGuffey Park, Reserve: 8/11/2018 and 8/12/2018, 6 a.m. to 11 p.m.

(ii) Justice Park, Reserve: 8/11/2018 and 8/12/2018, 6 a.m. to 11 p.m.

**SPONSOR(S) NAME:** Brian Lambert

**CONTACT:** the [live2lam366@yahoo.com](mailto:live2lam366@yahoo.com) (428 Meade Avenue; 434-872-3721)

Please be advised that the above-referenced application/ request is hereby **DENIED**. The reasons for this decision are as follows:

- (1) **The proposed demonstration or special event presents a danger to public safety and it cannot be accommodated within a reasonable allocation of City funds and/or police resources:** the application proposes a demonstration or special event to take place on the anniversary of the violence on 8/11/2017 and 8/12/2017; the application likely underestimates the number of participants.
- (2) **The application proposes activities contrary to the limitations and conditions specified within these regulations:** The application asks the City to assign police to provide services to ensure that anyone "protesting the event" is removed from the respective parks—the City cannot provide the requested service (3.4.7). No pop-up ("easy-up") tents are allowed (3.3.1). **Also:** McGuffey Park cannot be used after 9:00 p.m., per City Code §18-1.
- (3) **There is no person or entity authorized to sign the application on behalf of a group applying for a permit and/or there is no person or legal entity willing to accept responsibility for the group's adherence to the limitations set forth within the City's special events regulations:** the application is filed and executed by a single individual, but the individual who signed the application has included no information documenting *how* he will exercise responsibility for the behavior of the participants in his event, how they will be identified on the date(s) of the demonstration or special event for purpose of being admitted into the Park, or what plan there may be to allow the City to effectively hold the sponsor individually accountable, financially and otherwise, for the entire group's adherence to City regulations. No group has been identified or has indicated a willingness or ability to be responsible for the behavior of its members.

Signature by: Maurice Jones Maurice Jones (for Events Coordinator)

Date: 12-11-17

Please be advised that any future application(s) will be reviewed under the version of the City's Standard Operating Procedures for Demonstrations and Special Events in effect when such application(s) are received. Before submitting an application, please review the applicable regulations.

***Exhibit D***

***Elmer Woodard***  
***Attorney at Law P.C.***

5661 US Hwy 29  
Blairs, Va 24527  
434-TRIangle 8-3422  
434.878.3422  
isuecrooks@comcast.net

Monday, January 29, 2018

Craig Brown, Esquire  
City Attorney's Office  
P.O. Box 911  
Charlottesville, VA 22902

Re: Rally Permit

Dear Sir:

I trust receipt hereof finds you well.

I represent Jason Kessler. As you know, he has applied for a permit for a rally in August of this year. Said application has been denied, on divers and sundry grounds.

Mr. Kessler has resubmitted his application changing the time limits to accommodate the park hours, only to be rebuffed and then referred to your office.

An applicant for a permit for an event simply cannot be required to anticipate all of the possible nuances involved in such an event, which is why the highly trained professionals at Parks and Recreation are paid to follow the regulations established by the City to do so. Those professionals have referred us to you.

Accordingly, please specify in writing the terms and conditions upon which the City will allow Kessler's rally to go forward on the date(s) specified. Once that is done, Mr. Kessler can decide whether he wants to go forward.

With kind regards, I am

Very Truly Yours,



Elmer Woodard

Cc:

# CITY OF CHARLOTTESVILLE

*"A World Class City"*

Office of the City Attorney  
City Hall  
P.O. Box 911-605 East Main Street  
Charlottesville, Virginia 22902  
Telephone: (434) 970-3131  
Fax: (434) 970-3022  
[www.charlottesville.org](http://www.charlottesville.org)



February 23, 2018

Elmer Woodard, Esq.  
Attorney at Law, P.C.  
5661 US Hwy 29  
Blairs, Virginia

Re: Kessler Rally Permit

Dear Mr. Woodard,

Enclosed please find a copy of the Notice of Decision given to Mr. Kessler on December 11, 2017. The reasons for the denial are specified in the Notice.

A copy of the City's Special Events Regulations is available to Mr. Kessler at  
<http://www.charlottesville.org/departments-and-services/departments-h-z/parks-recreation-/facility-rentals-special-events-permits>

Sincerely,

Lisa A. Robertson  
Chief Deputy City Attorney

# CITY OF CHARLOTTESVILLE

Office of the City Manager  
P.O. Box 911  
Charlottesville, Virginia 22902  
Telephone: (434) 970-3101



## NOTICE OF DECISION Issued Pursuant to the City's Special Events Regulations (8/12/10)

**APPLICATION/ REQUEST DATE:** Received by City on 11-27-2017  
Emancipation Park: reserve 8/11/2018 and 8/12/2018, 6 a.m. to 11:00 p.m.

**SPONSOR(S) NAME:** Jason Kessler  
**CONTACT:** the [maddimension@gmail.com](mailto:maddimension@gmail.com) ; [jason@unityandsecurity.org](mailto:jason@unityandsecurity.org)

Please be advised that the above-referenced application/ request is hereby **DENIED**. The reasons for this decision are as follows:

- (1) **The proposed demonstration or special event will present a danger to public safety, and cannot be accommodated within the area applied for, or within a reasonable allocation of City funds and/or police resources:** the application proposes a demonstration or special event to take place on the anniversary of the violence on 8/11/2017 and 8/12/2017; the application likely underestimates the number of participants. The applicant requests that police keep "opposing sides" separate and that police "leave" a "clear path into event without threat of violence", but city does not have the ability to determine or sort individuals according to what "side" they are on and no reasonable allocation of City funds or resources can guarantee that event participants will be free of any "threat of violence".
- (2) **The application proposes activities contrary to the limitations and conditions specified within these regulations:** City regulations do not allow use of Emancipation Park before 1:00 p.m. on any Sunday.
- (3) **There is no person or entity authorized to sign the application on behalf of a group applying for a permit and/or there is no person or legal entity willing to accept responsibility for the group's adherence to the limitations set forth within the City's special events regulations:** the application is filed and executed by a single individual, but the individual who signed the application has included no information documenting *how* he will exercise responsibility for the behavior of the participants in his event, how they will be identified on the date(s) of the demonstration or special event for purpose of being admitted into the Park, or what plan there may be to allow the City to effectively hold the sponsor individually accountable, financially and otherwise, for the entire group's adherence to City regulations. No group has been identified or has indicated a willingness or ability to be responsible for the behavior of its members.

Signature by: *Maurice Jones* Maurice Jones (for Events Coordinator)

Date: 12-11-17

Please be advised that any future application(s) will be reviewed under the version of the City's Standard Operating Procedures for Demonstrations and Special Events in effect when such application(s) are received. Before submitting an application, please review the applicable regulations.



disk  
of  
exhibits

Exhibit E  
3:18-cv-15  
DVD



Court Name: District Court  
Division: 400  
Receipt Number: 400002153  
Cashier ID: mhupp  
Transaction Date: 03/06/2018  
Payer Name: ELMER WOODARD

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CIVIL FILING FEE  
For: ELMER WOODARD  
Case/Party: D-VAW-3-18-CV-000015-001  
Amount: \$400.00

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CHECK  
Check/Money Order Num: 1022  
Amt Tendered: \$400.00

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Total Due: \$400.00  
Total Tendered: \$400.00  
Change Amt: \$0.00

JASON KESSLER V. CITY OF  
CHARLOTTESVILLE, ET AL.

3:18CV00015  
CIVIL FILING FEE